BEST COPY
AVAILABLE

MT LEGISLATIVE HISTORY

Chapter 435 1981

Bill H _____ S 916 Original bill & hist. ___C

H. Committee on Lic Govt. S. Committee on Tax

Hearing Date(s)			Hearing Date(s)		
	3-24	___C		1-22	___C
	_____	___C		3-9	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	3-26	___C		_____	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

MANAGEMENT ...R STATE FOREST LANDS.
INTRODUCED: 1/10
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/10
HEARING: 1/23
REPORT: 1/24, DO NOT PASS, YEAS: 37; NAYS: 9 — KILLED

SB 96 — VAN VALKENBURG — TO PROVIDE FUNDS FOR SPECIAL IMPROVEMENT DISTRICT REVOLVING FUNDS BY...
INTRODUCED: 1/12
REFERRED TO COMMITTEE ON TAXATION: 1/12
HEARING: 1/22
REPORT: 3/11, DO PASS AS AMENDED
2ND READING: 3/13, DO PASS
3RD READING: 3/17, YEAS: 48; NAYS: 0

TRANSMITTED TO HOUSE: 3/17
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 3/18
HEARING: 3/24
REPORT: 3/26, BE CONCURRED IN, AS AMENDED
2ND READING: 3/30, YEAS: 72; NAYS: 0
3RD READING: 3/31, YEAS: 92; NAYS: 4

RETURNED TO SENATE WITH AMENDMENTS: 3/31
2ND READING: 4/9, BE CONCURRED IN
3RD READING: 4/11, YEAS: 46; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/15/81
ACTION: 4/20, SIGNED
CHAPTER 435

SB 97 — ETCHART — CONCERNING ANNUAL ELECTIONS OF IRRIGATION AND DRAINAGE DISTRICTS...
INTRODUCED: 1/12
REFERRED TO COMMITTEE ON AGRICULTURE: 1/12
HEARING: 1/19
REPORT: 2/2, DO PASS AS AMENDED
2ND READING: 2/4, DO PASS
3RD READING: 2/6, YEAS: 48; NAYS: 0

TRANSMITTED TO HOUSE: 2/6
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/7 — DIED

SB 99 — HIMSL, REGAN, BLAYLOCK, ET AL — REMOVING THE AUTHORITY OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DIRECT THE IMPOSITION OF STATEWIDE DEFICIENCY LEVIES...
FISCAL NOTE: REQUIRED
INTRODUCED: 1/12
REFERRED TO COMMITTEE ON TAXATION: 1/12
HEARING: 1/23
REPORT: 2/9, DO PASS
2ND READING: 2/11, DO PASS
3RD READING: 2/13, YEAS: 49; NAYS: 0

TRANSMITTED TO HOUSE: 2/13
REFERRED TO COMMITTEE ON EDUCATION: 2/14
HEARING: 3/6
REPORT: 3/27, BE NOT CONCURRED, AS AMENDED
ON MOTION, 3/28, RECONSIDERED AND PLACED ON 2ND READING
YEAS: 51; NAYS: 38
2ND READING: 3/31, YEAS: 56; NAYS: 36

47th LEGISLATIVE SESSION

SENATE BILLS COMMITTEE ON TAXATION

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
42	1-05-81	1-21-81				3-04-81			
44	1-05-81	3-23-81		3-23-81					
47	1-05-81	1-16-81		1-30-81					
53	1-05-81	1-14-81			2-19-81				
54	1-05-81	1-14-81				1-14-81			
55	1-05-81	1-14-81		1-14-81					
61	1-05-81	Withdrawn by author							
77	1-09-81	1-23-81				1-30-81			
85	1-12-81	1-21-81				2-11-81			
96	1-12-81	1-22-81				3-09-81			
98	1-12-81	1-23-81		2-09-81					
102	1-12-81	1-26-81				3-09-81			
107	1-12-81	1-22-81				2-19-81			
122	1-15-81	1-28-81				1-28-81			
126	1-15-81	1-26-81		3-21-81					
130	1-15-81	1-26-81	Tabled	3-25-81					

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 22, 1981

The tenth meeting of the committee was called to order at 8:00 a.m. by Chairman Pat Goodover in Room 415 of the State Capitol Building.

ROLL CALL: All members were present, except Sen. Ochsner, and Senators Eck and McCallum who were excused.

CONSIDERATION OF SENATE BILL 96: Sen. Fred Van Valkenburg, District 50, said this is an act that would amend the law on SID's to provide an additional option to cities to fund the required revolving fund account. The revolving fund has been required by statute since 1929 to provide a method of covering delinquencies which might arise in payment of SID's. The fund is available to act as a loan to the SID's. It has become necessary over the years because local governments find it almost impossible to sell SID bonds without a revolving fund. The law now provides that it be funded by one of two options: 1) loans from the general fund of the city and 2) a general levy of all taxpayers within the taxing entity to provide up to 5% of the then outstanding bonds. This bill proposes an additional option to fund the RF by collecting up to 5% of the bonds that are sought to be issued from the people seeking to create a new SID. He felt this was important because those people are the ones who are creating the obligation and he felt they, rather than the general taxpayer, should bear the cost.

PROPONENTS: Mae Nan Ellingson, Missoula Deputy City Attnorney, presented testimony which is incorporated into these minutes as Attachment #1.

Bill Verwolf, City of Helena, agreed that this proposal transfers the responsibility for providing the security for SID bonds to the newly developed areas, through the developers, rather than general property taxpayers. He felt it also allowed this to be accomplished under the tax-exempt interest structure to assist the development.

Bruce MacKenzie, General Counsel and Vice-President of D. A. Davidson, supports bill's concept. He said the revolving fund is an extremely important source of security for SID's.

Al Thelen, City of Billings, said that because every development that comes before a city is not the same, he sees this bill as giving other options to create more equity. His testimony is incorporated as Attachment #2.

John Evans, City of Bozeman County Commissioners, presented a commission resolution which is incorporated as Attachment #.

Scott Currey, Montana Association of Realtors, would like to see an amendment to the effect that money in the revolving fund be eventually returned to land owners.

There were no opponents to this bill and questions and comments were called for from the committee.

Senator Van Valkenburg responded to Mr. Currey's amendment proposal saying he had no strong objection to it other than he thought it might be a bookkeeping nightmare with respect to returning the money 15 years later.

Sen. Towe to Mae Nan: What is average size of SID? She answered it varies from $30,000 to $900,000. Al Thelen's guess was an average of $350,000. Sen. Towe asked what became of money if the revolving fund built up larger than necessary. Mae Nan said there is a state law that provides the money can be returned to the general fund. Sen. Elliott wondered if there was anything preventing the cities from requesting the developer to deposit into the revolving fund. Mae Nan replied Missoula has no specific statute authority that would allow this, but none that would deny it either. Sen. Crippen asked Mr. Thelen whether cities that don't have the 5% are obligated to take one of these options when a developer comes in and wants to improve the land. Mr. Thelen said developer would come in and have option to make the improvement or create SID's. Until 1978, if they chose to use SID method the revolving fund was funded by general taxing of people in the community. He said some developers prefer to go with private financing so payments can be spread over 30 years. He said he didn't like the proposed amendment because some small cities don't want to use this and they should have an optio

The hearing was closed on Senate Bill 96.

CONSIDERATION OF SENATE BILL 107: Because sponsor, Sen. McCallum, was ill, the Chairman announced that Dennis Burr would present the bill for him.

Dennis Burr said SB 107 is an attempt to deal with an appeal problem. He said the only method a taxpayer has for protest is paying the tax under protest and then within 90 days bringing an action in district court. He said the situation has arisen where a unit of state government has applied an illegal levy, subsequently challenged, but that there is no way to challenge before the tax is collected. For the general taxpayer who doesn't have large resources the effort of recovering the taxes is more problem than the amount of the tax. SB 107 says that if an action is brought in district court first, it can be brought before the taxes so that the levy may be challenged prior to payment. It expands district court powers and helps them with the two options mentioned above.

There were no proponents. Larry Weinberg, Dept. of Revenue, spoke as an opponent to the bill. He felt the Declaratory Judgment Act could be used and achieve the same end that the bill proposes. He

Attachment #1

TO: MEMBERS OF THE SENATE TAXATION COMMITTEE

FROM: CITY OF MISSOULA

RE: SENATE BILL NO. 96

DATE: JANUARY 21, 1981

As you are aware, the use of Special Improvement Districts have become an important method by which local governments finance public improvements. The theory of the special improvement assessments is to apportion public improvement costs to properties that are deemed to derive a primary, special or local benefit from that improvement. Special Improvement District bonds are not general obligation bonds nor do they constitute an indebtedness of the City.

Existing state law requires that a city issuing S.I.D. bonds establish a revolving fund to secure the payment of the district bonds and interest thereon as it becomes due. The legislature has authorized the city to fund the revolving fund by either loaning the revolving fund money from the general fund or by levying a tax on property within the city not to exceed in any one year 5% of the principal amount of outstanding bonds. Irrespective of the way the revolving fund is financed, any payment of bond or interest made from the revolving fund is a loan to the Special Improvement District. This loan gives rise to a lien against further assessments for the amount of the loan.

The purpose of Senate Bill No. 96 is to provide cities with another alternative for financing the revolving fund. It is our position that to the extent local property owners benefit from the creation of a Special Improvement District those property owners ought to contribute directly to the revolving fund, thus relieving the general fund taxpayers of that obligation. Having this additional source of revenue for the revolving fund is particularly important during the first year of an S.I.D. when the delinquencies are likely to be high.

Your favorable consideration of Senate Bill No. 96 will be greatly appreciated.

It should be noted that the City of Missoula has read the Revenue Oversight Committee Report on Special Improvement Districts; and while we feel there are several inaccurate statements contained in the Report, we do recognize that there is concern about the use of S.I.D.'s. Part of that concern appears to be the extent to which the general taxpayers might be liable for S.I.D. payments. They are not liable for those payments! But to the extent the general fund taxpayers are taxed to fund the revolving fund to lend money to the district, this bill should alleviate the need for the general fund levy.

Respectfully submitted,

Mae Nan Ellingson
Missoula Deputy City Attorney

MNE/jd

Attachment #2

January 22, 1981
Room 415

TESTIMONY PROVIDED BY AL THELEN TO THE SENATE COMMITTEE ON TAXATION REGARDING SENATE BILL 96.

My name is Al Thelen. I am the City Administrator for the City of Billings, Montana, and I appear before you today on behalf of the City of Billings.

The City of Billings supports SENATE BILL 96 because it will provide another option to raise capital at a time when it is very difficult to find the funds necessary to make special improvements to accommodate community improvements. The City of Billings has a policy at the present time that requires the owners and/or developers of a new subdivision to make a contribution of 5% of a proposed special improvement district bond issue to the Revolving Fund before the City will authorize the issuance of such bonds. The City policy states that if the development is 25% or more developed, that the contribution to the Revolving Fund is not required. The latter provision was made in order to allow the owners of property within older districts to use this method of financing public improvements. Our policy would be more equitable and easier for us to administer if we could include the 5% contribution of multiple districts to come out of the proceeds of the bond issue. This would further allow the Revolving Fund to receive money from all of the owners of property benefiting from the improvements as opposed to a general tax levy on all property.

I urge you to favorably consider SENATE BILL 96. Thank you.

CITY OF BILLINGS, MONTANA

Mayor

ATTEST:

Clerk of the City Commission

Attachment #3

COMMISSION RESOLUTION NO. 2300

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA, EXPRESSING SUPPORT OF AND URGING PASSAGE BY THE MONTANA LEGISLATURE OF SENATE BILL NO. 96, "AN ACT TO PROVIDE FUNDS FOR SPECIAL IMPROVEMENT DISTRICT REVOLVING FUNDS BY ALLOWING 5% OF THE IMPROVEMENT COST TO BE AN INITIAL INCIDENTAL EXPENSE TO BE DEPOSITED IN THE REVOLVING FUND."

WHEREAS, the purpose of a Special Improvement District Revolving Fund is to secure prompt payment of any special improvement district bonds or sidewalk, curb, and alley approach warrants issued in payment of improvements made therein and the interest thereon as it becomes due; and

WHEREAS, the present sources of money for the revolving fund are limited to transfers from the General Fund and a special tax levy on all taxable property of the City, and both sources impose a financial burden on all taxpayers of the City; and

WHEREAS, special improvements by their nature and intent primarily benefit only a limited specific geographic area of the City; and

WHEREAS, Senate Bill No. 96 provides an option, deemed practical, fair and reasonable, to alleviate the imposition of City-wide tax levies to support the special improvement district revolving fund.

NOW, THEREFORE, BE IT RESOLVED that the City Commission of the City of Bozeman supports and urges passage of Senate Bill No. 96 by the Montana Legislature to provide funds for Special Improvement District Revolving Funds by allowing 5% of the improvement cost to be an initial incidental expense to be deposited in the revolving fund.

PASSED AND ADOPTED by the City Commission of the City of Bozeman, at a regular and stated session of said City Commission, held on the 21st day of January, 1981.

Mayor

ATTEST:

Clerk of the City Commission.

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 9, 1981

The 41st meeting of the committee was called to order at 4:20 p.m. in room 415 of the State Capitol Building, Chairman Pat Goodover presiding.

ROLL CALL: All members were present, with the exception of Senator S. Brown.

DISPOSITION OF SENATE BILL 96:

AN ACT TO REQUIRE THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO DRAFT RULES TO SPECIFY WHEN PUBLIC ASSISTANCE MAY BE DENIED TO A PERSON WHO HAS TRANSFERRED PROPERTY FRAUDULENTLY.

Cort prepared amendments to SB 96, passed them to the committee, and read through them.

DISCUSSION: Sen. McCallum said we didn't have to have 5%, but if there was 5% it was to be used to pay back the taxpayers and the only way we could think of was to give it back and pay on the last bond due in the district.

Elliott: To be exact, it would be the last assessment against that property.

Senator Towe: We worked over these amendments and I want to change a little bit. The idea that we wanted was the amount of money deposited to the revolving fund to go back to the benefit of the landowners at the last payment date.

Severson: Why should interest go back to the city?

McCallum: We talked about the interest. If we didn't give to the cities, the money would have gone back to the general fund.

Elliott: The problem is there is an accounting nightmare if you tried to attach interest to the amount of principal in the revolving fund. Once money is there it's easy to keep track of principal, but it would be difficult to keep track of the interest because monies are consolidated and invested.

Cort: Another thing that came to our attention after the amendments were adopted was that there are a lot of loans that are FHA guaranteed loans requiring SIDS be paid ahead of time. When you give this back to the property owners, only those who haven't prepaid their SIDS will benefit.

Towe: What happens is that at the last payment we will pull out their $5,000 out of the fund and then you don't have to assess the property owners as much. Senator Towe moved that the amendments be adopted with this change and modification: On the new section, Section 4, disposal of bonds proceeds deposited in the revolving fund. I suggest striking "the proceeds of the issuance of bonds and warrants that are" and would insert "any sum, without interest" and then after figure (2) "less the amount of any loan made to the district fund which has not been repaid."

The amendments were carried unanimously. Senator Towe then moved the amendments as amended to the bill.

He then explained what the amendments do:

The bill as it is before you un-amended would allow the governing body to require 5% of the amount of the bond to be put in the revolving fund and will further allow that sum to be added in the bonding amount. Question was raised whether after bonds are all paid, shouldn't we give that money to the people who put it up? We have done that by going into that section of the code which says any excess monies that are in the revolving fund can be transferred to the city's general fund. We had to go into that and provide that these monies, this 5%, are not excess funds so cities cannot get at them. Section 4 then provides that any sum without interest that is deposited pursuant to the new material on page 1 shall be returned less any amount they used of the revolving fund because they needed it to pay off bonds that shall be returned to the property owners be used for the last payment or payments to the bond. Therefore, the assessments are reduced by the amount covered with this initial payment.

Senator Towe moved the amendments to the bill. The motion carried unanimously. Senator Towe then moved that SB 96 be given a DO PASS, AS AMENDED. The motion carried unanimously.

DISPOSITION OF SENATE BILL 382

AN ACT TO CLARIFY AND REVISE THE ISSUANCE AND PAYMENT OF SPECIAL IMPROVEMENT DISTRICT AND RURAL SPECIAL IMPROVEMENT DISTRICT AND RURAL SPECIAL IMPROVEMENT DISTRICT BONDS CLARIFYING THAT THE BONDS ARE NOT GENERAL OBLIGATION BONDS CLARIFYING THAT RESTRICTING THE LEVYING OF A TAX TO PROVIDE FUNDS FOR THE REVOLVING FUND TO INSTANCES WHEN THE REVOLVING FUND TO INSTANCES WHEN THE REVOLVING FUND DOES NOT EXCEED 5 PERCENT OF THE OUTSTANDING BONDS; REQUIRING THAT FUNDS IN THE REVOLVING FUND MAY NOT BE TRANSFERRED TO THE GENERAL FUND IF THE BALANCE IN THE REVOLVING FUND IS LESS THAN 5 PERCENT.

STANDING COMMITTEE REPORT

March 9 19 81

MR. PRESIDENT:

We, your committee on TAXATION

having had under consideration Senate Bill No. 96

Respectfully report as follows: That Senate Bill No. 96 be amended, as follows:

1. Page 3.
Following: line 10
Insert: "Section 3. Section 7-12-4227, MCA, is amended to read:
"7-12-4227. Utilization of excess money in revolving fund. Whenever there is an amount in the revolving fund in excess of the amount deposited in the revolving fund under 7-12-4169(2) and in excess of the amount which the council deems necessary for payment or redemption of maturing bonds or warrants or interest thereon, the council may:
(1) by vote of all of its members at a meeting called for that purpose, order such excess or any part thereof transferred to the general fund of such city or town; or

Section 7-12-4227 was added to title by J. Farrow, amendments coordinator. He called me 3-10-81, 4:05 p.m.

DO PASS.

(CONTINUED)

Chairman.

STATE PUB. CO.
Helena, Mont.

(2) use such excess or any part thereof for the purchase of property at sales for delinquent taxes or assessment, or both, or property which may have been struck off or sold to the county for delinquent taxes or assessments, or both, and against which property there then be any unpai assessment for special improvements on account whereof there are outstanding special improvement district bonds or warrants of the city or town."

NEW SECTION. Section 4. Disposal of funds deposited in revolving fund. Any funds, without interest, deposited in the revolving fund under 7-12-4169(2) less the amount of any loan to the district fund not repaid shall be used to make the final payment or payments on the district's bonds or warrants. The assessment on the property of the district shall be reduced for the final payment or payments of the bonds or warrants by the amount the revolving fund paid under this section."

And, as so amended,

DO PASS

PAT M. GOODOVER,
Chairman.

STATE PUB. CO.
Helena, Mont.

(2) use such excess or any part thereof for the purchase of property at sales for delinquent taxes or assessment, or both, or property which may have been struck off or sold to the county for delinquent taxes or assessments, or both, and against which property there then be any unpa assessment for special improvements on account whereof there are outstanding special improvement district bonds or warrants of the city or town."

NEW SECTION. Section 4. Disposal of funds deposited in revolving fund. Any funds, without interest, deposited in the revolving fund under 7-12-4169(2) less the amount of any loan to the district fund not repaid shall be used to make the final payment or payments on the district's bonds or warrants. The assessment on the property of the district shall be reduced for the final payment or payments of the bonds or warrants by the amount the revolving fund paid under this section."

2. Title, line 8.
Following: "7-12-4169"
Strike: "AND"
Insert: ","
Following: "7-12-4222,"
Insert: "AND 7-12-4227,"

And, as so amended,
DO PASS

Pat M. Goodover
PAT M. GOODOVER, Chairman.

STATE PUB. CO.
Helena, Mont.

STATUS SHEET

LOCAL GOVERNMENT COMMITTEE

47th Legislature (1981)

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 96	To provide funds for special improvement district revolving funds by	3/18	Fred Van Valkenburg	3/24	AS AMENDED BE CONCURRED IN	3/26
SB 382	Clarifying and revising the issuance and payment of special improvement district and rural special improvement district bonds	3/18	Jean Turnage	3/24	BE CONCURRED IN	3/24
SB 291	To authorize loans from rural special improvement district revolving fund to fund emergency repairs in a rural special improvement district.	3/21	Tom Hager	3/26	BE CONCURRED IN	3/26
HJR 60	A joint resolution of the Senate and the House requesting an Interim committee study of possible resolutions to the problems of large urban areas without infringing on ~~rural interests~~	3/30	James Azzara	April 2	DO PASS	4/2
HJR 61		3/30	Steve Waldron	TRANSFERRED TO	TAXATION COMMITTEE	

Form CS-32
1-79

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
March 24, 1981

The Local Government Committee met Tuesday, March 24, 1981 at 12:30 p.m. in Room 103 of the Capitol. Chairman Bertelsen called the meeting to order and the secretary called the roll. All committee members were present except REPS. AZZARA, DUSSAULT, GOULD, and HURWITZ. Staff Researcher LEE HEIMAN was present too.

SB 96 , Sponsored by SEN. FRED VAN VALKENBURG

SEN. VAN VALKENBURG presented the bill to committee members. This bill would amend the laws relating to funding of the Special Improvement District revolving fund to provide that the cost of the improvements may include up to 5% of that total amount to fund the revolving fund which guarantees payments on any defaults from SID payments. The reason this is being sought is that presently the revolving fund is funded from all the sources, but one is from a general fund mill levy. What is happening there is that all of the taxpayers in a community are being forced to guarantee the bonds that are being sought by the limited number who want to have a particular special improvement district in their area. This has the effect where general fund monies are very tight, making it difficult to form SID's in one respect or to fund other needed services that are required out of the city's general fund in another respect.

You may be interested to know that the Revenue Oversight Committee during the interim between the last session did a fairly extensive study of SID's in Montana. There is considerable discussion on pages 3 and 4 about this particular problem of funding the revolving fund. The Senate added an amendment to the bill, new section 4, which would require that if the revolving fund was never tapped to pay off defaults, it would revert back to the property owners in the SID in the form of a partial payment on their final assessment. There may be some objection to that from representatives of the cities, but the members of the Senate who worked on that felt fairly strong about it and would be interested in taking this to a conference committee if that disappeared. On the other hand, I think there were problems with the language used and as a result I would propose that that section be rewritten to accomplish the general purpose of the Senate in that regard. The Senate acted on both this bill, SB 221 and SB 382 after the transmittal date and transmitted them after the 45th transmittal date. Consequently, from your work perspective, I don't feel there is a real rush to put amendments on these bills and pass them out by the 70th day. The Senate is bound by its committment of treating these as revenue bills. They were referred to the Senate Taxation Committee rather than the Senate Local Government Committee.

On page 2, line 10 the present statutory conjunction of "and" was stricken and an "or" was inserted. I question whether that should not be left as "and" and I think that one of the people

who testify on the bill has the opinion that it should definitely be left as "and". I ask that you look at that very carefully to determine what it should be.

PROPONENTS FOR SB 96

MAE NAN ELLINGSON, Missoula Deputy City Attorney, said you may remember that earlier in the session when REP. SALES had two bills dealing with SID's, I mentioned at that time that SB 96 would hopefully be coming over and that the bill would address some of the problems Rep. Sales was having with that general fund liability for SID payments and delinquencies. It is our opinion that SB 96 does just that. SB 96 allows the local governing body to require that 5% of a SID be included with the bond issue to fund the revolving fund. We agree with Sen. VAN VALKENBURG that the "or" be changed to "and". We would also add that this committee pay particular attention to Section 4. It is our position that the bill is better off without that section. If the intent of section 4 is reasonable to this committee, then it should be drafted in such a way that it will do the job it is intended to do. (For balance of testimony, see written material attached to and made a part of these minutes.)

BILL VERWORLF, Finance Director for the City of Helena, said the City of Helena is a proponent of this bill in its concept and basically in the way it is presented. There are some cities that are providing 5%. The City of Helena has been providing a 5% contribution to the SID revolving fund for about four years. It is not done through the SID bond issue. It is done on a requirement basis that the City says we will not approve it unless we get that contribution. The developer is required in that instance to come up with the 5% through other financing mechanisms outside of the SID procedure. That has two advantages. It makes our revolving fund a stronger and more viable fund and makes it easier to sell the bonds and probably helps our interest rate. The other thing is it places a requirement to guarantee those bonds on the people doing the developing or the people living in a new area rather than on the general population of the city.

We have two concerns with this bill in terms of Section 2 on page 2, line 10. It strikes out the work "and", and changes it to the word "or". I understand that to mean you may use either one procedure or the other. We have bond issues that have been out-standing for some time and have a different set of rules. We also have new issues that are coming into being and will require the 5%. We will also have new issues that will come into being and will not require the 5%. An example of those would be a SID in an already build up area of town that

has a gravel street and needs to be paved. What we're saying is that instead of having to make a specific choice for the future, we should have both of those available as a funding mechanism for the revolving fund. The other thing concerns the payback or the disposal of funds deposited which is the last section of the bill. The way the bill is written it says you will make the final payment for the payment for the property owner. In our experience, we normally issue a 15 year SID and by the 10th year over half of the people have paid off the entire balance of their SID so they don't have a final payment. If it is interpreted to mean that when they make the payoff, we pay a portion of this back, we don't know how much of this will be left at the end of 15 years. So it would be very hard to determine how much to repay. If you wait until the end, then we have perhaps 20% of the property owners still making payments, so you can't apply it just to them. So what happens to the people who make a payoff early? We're suggesting that this section really is not necessary. The municipalities can make the determination of how that can be paid back to the property owners.

Currently in our City of Helena, it is paid back to the property owners of the district. If you feel that section is necessary we feel a much more simple wording would be that at the end of the SID (the 15th year), if there is money left in the fund as is stated in the first part of that paragraph, the payback should be returned to the owner of record of the property in the ratio of the assessment that was originally on that property, not with regard to when they paid off the SID or how many years they let it run or how much balance they have left now, just that ratio. We prefer that the cities be allowed to make that allocation of those funds. The funds are there to guarantee the bonds. Once they have established that purpose, they can be available against future bonds.

AL THELEN, City Administrator of Billings, said they support SB 96. We do, however, oppose the amendment which was put on and I will speak specifically to it. I support the technical amendments MR. VERWOLF mentioned. I'd like to talk about the addition to that section. It was my privilege to serve in Helena when they first adopted their 5% requirement of developers and also in Billings when they did that. We found two different circumstances. In Helena it was the feeling of the City Council that they wanted to provide a vehicle much like Section 4 does for the return of that money toward the end, either the last year or last two years, depending on the amount of the assessment. It is very difficult to develop the administrative parts and I agree that the way it is done here simply will not work. In Billings the City Council did not want to make the requirement that the developer pay 5% up front. In both of those cities it was done so the revolving fund would not get in trouble and so the general taxpayer did not get that

obligation. In Billings they wanted the money in the revolving fund, when it exceeds the need, to return to the general fund and be used for arterial street purposes in accordance with the district statutes. If this bill is passed in its current form, it wouldn't be used in Billings. We would not use the privilege of letting the developer take the 5% out of the bond issue simply because that would then be controlled by Section 4. We would probably require that it come up-front from him so we could control the fee and put it into the general fund. There could be circumstances when we might want to offer that to the developer and I would either suggest eliminating Section 4 altogether or at least make that option and not penalize the cities that have solved this problem without the legislation.

CLIFF CHRISTIAN represented the Montana Association of Realtors. He said he is here to speak in support of the amendment that the cities want to strike. Bearing in mind what MR. THELEN said about not using the 5% capitalization on the SID's, I would plea with you to require that the cities have the 5% within the capitalization of the SID bonds so that Mr. Thelen or anybody else can't play games or make threats to my people in this committee. We feel that the SID's are generated by the property owners and that 5%, if there is any surplus, should be returned to the property owners. It should not be placed in the general fund. In addition, SEN. VAN VALKENBURG'S amendment looks fine with one exception. I would ask that you also return to the property owners all interest earned from the 5%.

BRUCE MacKENZIE said he is general counsel for D.A. Davidson and Company. He said he can supply some verification on this bill and that they support the bill. He drafted the bill at the request of the League of Cities and Towns at their September meeting. The "and" and the "or" were my insertions. Since you were putting in the new section and to provide maximum flexibility, I thought the word and/or would provide that. The Legislative Council informed me later that was a no-no; you don't use, and/or; you have to pick and choose and they chose. They chose the word "or" but I would urge the committee to choose "and", because that is the best flexible method for the cities. With respect to the amendment, (new section 4,) I think you should give heed to the cities' plight in keeping an accounting of these funds. The request by the realtors to return interest would expose them to a tremendous problem. Remember larger cities have many districts and you'd be asking them to keep track of each district fund, the amount of interest earned and particularly the 5% that was put into the fund to begin with. Then you'd have to deduct the amount loaned out to the district for revolving fund purposes, so you couldn't earn interest on that amount. You'd be creating a bookkeeping

nightmare for the cities and towns who have enough troubles with what they have to do now. We urge your consideration of SB 96 within the limits of what has been talked about today.

CHAIRMAN BERTELSEN asked if there were further proponents; he asked if there were any opponents of SB 96. As there were none, he asked SEN. VAN VALKENBURG if he'd like to close.

SEN. VAN VALKENBURG said even though you have heard a great deal of dissention with respect to section 4 in the bill, I remind you that it seems everybody is pretty much in agreement that the 5% method of funding the revolving fund is a very good idea. I encourage you to change the language on page 2, line 10 to "and" and to use your wisdom with respect as to how section 4 should be delt with.

REP. ANDREASON asked BRUCE MacKENZIE a question. He said he is not quite sure what was being said in relation to section 4. Would you clarify it for me?

BRUCE MacKENZIE: All I was saying is you should give consideration as to what the cities are saying because it creates a problem for them in administration. We have no quarrel one way or the other with the section. We deal with the cities often and many times they come to us for help. With respect to the amendment suggested by the Realtor's Association, I think that would compound the problem they have.

REP. SALES: Bruce, would you explain to the committee what the obligation of the city as a whole is to the payment of both the principal and the interest on delinquencies? Is there any limit to that obligation?

BRUCE MacKENZIE· That entails an explanation of the revolving fund mechanism. Since 1929 there were some defaults on SID's. Sid's are paid through a special assessment district itself. To the extent that there may be one property owner within a district, if he fails to make his assessment payment on time, there is a fund set up which has been funded either ghrough loans from the general fund to the special district revolving fund or through a general tax up to 5% of the amount of the bonds. That is used to fund the revolving fund. The revolving fund then makes loans to the district which is charged interest for the loan in the amount of delinquent tax assessment. That loan is repaid out of assessments that come back in once the assessment is paid off. If the individual never pays his taxes, the property has to go up for a tax sale and it is presumed the loan will be repaid in that manner.

REP. SALES: Is the limit of the city's obligation 5% of the principal amount of the SID bonds outstanding?

BILL VERWOLF answered the question. He said the limit is 5% in any given year. You can levy up to 5% of the outstanding bond principal in a given year and then you can do it again the next year. The ultimate liability of the city could be 100% of the bonds.

REP. SALES said he is talking about what happens if the whole district fails? How much do all the taxpayers in the state get stuck for?

BILL VERWOLF said for as many years as it takes to pay that bond issue off. Principal is paid last; interest is paid first. Any delinquency is paid either by transfer from the general fund or a levy of not to exceed 5% of the outstanding bond principal. For a given district you may pay the whole thing off in one year because we may have a $500,000 SID but we have $11,000,000 in bonds outstanding for all SID's.

REP. SALES said he can't imagine why the developers wouldn't be willing to put up that 5% front-end money and never get it back and do it very willingly when they are using that good faith and credit of every property taxpayer in the entire city?

CLIFF CHIRSTIAN said we are not the ones requiring this. I assume that the developers that I represent are very much concerned about the 5%.

REP. PISTORIA said he didn't know who to ask but he'd like any of the proponents of the amendment (section 4) if they are for the amendment?

BILL VERWOLF said he would prefer to offer a changed working. The problem with the wording is that it still requires that it be given back to the property owners as partial payment of their final payment. That is where we have the problem. At the final payment date, not everybody owes money. If section 4 remains in the bill, I would offer a revised wording which merely says you give the money back to the property owners in the ratio to which it was assessed to start with.

REP. HANNAH asked AL THELEN to respond to some of the other questions.

AL THELEN said there were two things that were mentioned. One was that they weren't asking for SIDs. The use of a SID is at the request of either the developer or the people in the area. In every city I know of, the developers also have the ability to fund through private financing. In our city it is about

50-50. Yet I would like to point out that two cities have solved the problem this bill addresses; the problem of charging the general taxpayer for the revolving fund. In my judgment with the amendments or with the subamemdments that have been made, you are still penalizing the cities that for four or five years have stopped the policy of a general property tax to fund SID's.

REP. HANNAH: Al, would you explain to me how the city has stopped the general policy of the general fund liability?

AL THELEN said not the liability, but the funding. Many cities have had to go to a general mill levy for the City. The funds are the revolving funds. In both Helena and Billings that is up-front by the developer through a contribution of 5%. The only difference is it does come out of proceeds of the bond issue, but it is like a fee we must pay on the front-end in order to use the SID. The result of that is that there is not the general property tax levy.

REP. HANNAH said Al, then that 5% is cash up-front by the developer and is given to the city. The city uses that money for the revolving fund. Is that correct?

AL THELEN said that is correct.

REP. HANNAH continued that when the SID is totally paid up, the city takes whatever balance is left out of the fund and puts it into the general fund. Is that correct?

AL THELEN stated that in the City of Helena it goes to pay the last payment for those special assessments that have not been paid. Then if there is any thing left, it goes into the general fund under the general provision law. In Billings because of a different kind of problem with arterial streets, their policy was at the end of the 15th year the money would go to the general fund to be used for arterial streets. My plea is "don't take that option away from the local government who has done a good, responsible job of managing the revolving fund."

REP. HANNAH then asked Al Thelen: Don't you have a guilt problem about giving the people that 5%, which is rightfully theirs?

AL THELEN said it was a reasonable fee. I supported what they did in Helena when they wanted to give it back. And I support Billings because the circumstances are different. I don't think it has to be the same. I point out that in Helena it didn't slow down the use of SIDs at all. I think practice has shown it is a good deal. I don't think it slows it down in Billings either. But in both of those cities, they do have the option to

use private financing if they wish. I think each city should make that decision. I would not like to see a mandatory requirement by the state on that issue.

REP. SALES said Al, let's take an example of a very small 30 lot subdivision where all the lots have been assessed. Of this 5% of the principal, when the principal becomes due at the end of the first year and just one lot out of that 30 is delinquent, that would wipe out the 5%. Or are we talking about the full amount? Are we talking about the principal due that year or are we talking about the full amount of the principal for the entire bond issue?

AL THELEN said about the whole bond issue on the ones he is familiar with.

CHAIRMAN BERTELSEN asked if there were further questions. As there were none, he closed the hearing on SB 96.

SB 221-Sponsored by Senator Fred Van Valkenberg.

SEN. VAN VALKENBURG introduced the bill by stating it was to clarify that SID assessments were subject to, first of all, the same penalties and interest requirements that are appropriate for delinquent property taxes. There are some minor amendments that occur on page 2, line 1 and on page 5, lines 8 and 9, to insure that what we're talking about here for late payments is the same thing as delinquent property taxes. In addition it was the desire here to also clear up an ambiguity that might exist that the payments on SID's could be made either semi-annually or annually. There are a number of language changes in order to make that particular point clear. There have been some special improvement districts assessed on payments to be collected by the bond holders on the annual basis. There was some confusion as to whether the statutes permitted that. This bill attempts to clarify this matter. In addition, the Senate Taxation Committee amended the bill on page 6 with respect to the collection of the assessment from the property owners to provide that one-half shall be payable on November 30 and the other half in May, the same as the provision with respect to payment of property taxes. That may cause some problems. It was not the intent of what the Senate was trying to do, but the manner in which the language was written. I talked to Senator Norman when he was here earlier. He was on the sub-committee that dealt with that. He explained to me that the real intent of the Taxation Committee was to make those payments optional to the taxpayer, but I am not sure that is what the Senate Taxation Committee accomplished. In fact, I'm told there is some real internal conflict in the bill now.

The amendments to SB 221 are as follows:

1. Page 6, lines 7 and 8.
Following: "payable"
Strike" "AS FOLLOWS:
(A) "ONE-HALF OF SUCH TAXES SHALL BE PAYABLE"

2. Page 6, lines 15 through 19.
Following: line 14
Strike: subsection (B) in its entirety

QUESTION ON THE AMENDMENTS:

All in favor of Rep. Sales' amendment, say "aye". As no one was opposed, the motion carried and SB 221 received an AS AMENDED BE CONCURRED IN recommendation.

REP. SALES will carry this bill.

SB 96 Sponsored by Senator Fred Van Valkenburg

CHAIRMAN BERTELSEN said this is the act to provide funds for special improvement district revolving funds by allowing 5% of the improvement cost to be an initial incidental expense to be deposited in the revolving fund.

REP. BERGENE asked if there is any kind of tie up between SB 96 and 382.

LEE HEIMAN said he doesn't see anything. They both do different things. I did check through the amendments and I didn't see anything except a conflict of wording.

REP. PISTORIA said it seems to be the opinion of all of us to go back to "and", and eliminate "or" on line 10 of page 2.

REP. PISTORIA moved the above amendment.

QUESTION ON AMENDMENT: All in favor of the amendment say "aye". All present replied "aye" and the MOTION on the amendments CARRIED.

REP. BERTELSEN said he has received an amendment which he'd like to read to provide a payback in a little different manner. It says:

NEW SECTION. SECTION 4. DISPOSAL OF FUNDS DEPOSITED IN REVOLVING FUND. "The amount of funds deposited in the revolving fund under 7-12-4169 (2) less the amount of any outstanding loans to the district fund and less any interest earned on such funds shall

be returned to the owners of record of the property of the district in direct proportion to the total assessment levied on that property."

REP. BERTELSEN gave the amendment to Lee and asked if he thought it was in proper order? This bill was furnished by the cities and he got it from Mr. Verwolf, and it might do away with the objection we are having to the payout.

REP. KESSLER asked a question of Al Thelen. Would that amendment take care of that "may" or "shall" that we talked about?

AL THELEN said it does not take care of that problem, but it makes that portion of it more workable.

REP. SALES said his concern is, it seems they have found a way to work it out without something being explicitly in the law. It always bothers me when they find a way to work something out at the local level and we have trouble under the law, telling them what to do. I would assume they would be better off without it, but then you get back to the idea of a refund all together. If you really think the people who are getting the advantage of tax-exempt improvements and financing home improvements and the fact that everybody in the city shares their liability for those improvements and you don't think that is worth that 5% upfront money, then they should get the refund. I suppose you should try to figure out a way for them to get it back.

REP. KITSELMAN asked to have Al Thelen answer another question.

Am I correct that in Billings the money goes back to work for other improvements on highways and so forth? What does that 5% amount to for the average property owners, say in the Heights?

AL THELEN said it depends on whether you are talking about streets, water and sewer, but generally we are talking about something in excess of $1 per square foot for assessments. I would say the average would be between $400 to $500.

REP. KITSELMAN asked "is that then contributed to doing a lot of our repairs on our arteries in Billings, the downtown area, and so on?

AL THELEN said it is tied to our arterial streets, maintenance and construction. We haven't gotten in any of that as yet but it is earmarked for that.

REP. KITSELMAN commented that it looks like in his case, in 15 years when my SID's are paid off, I'm donating $500 to the City of Billings to fix those crazy streets?

AL THELEN replied yes, that is right.

REP. KITSELMAN said he wouldn't care for that.

REP. HANNAH asked Al what rate of interest he is getting on the money in the revolving fund?

AL THELEN said they are on a daily interest rate. The last time he looked at it, it was between 13% and 14%. This changes weekly, based on the daily balance.

REP. HANNAH said the problem he has with it would be primarily in commercial areas. If you had a developer who came in and put in a major mall like Rimrock Mall, let's say there was a 5% requirement on the SIDs and he is the sole owner of the piece of property. In 15 years it would seem to me there would be a considerable chunk of money sitting in that revolving fund that would come back to one person, or one group of people who were developers of the property. It is rather simplistic in my mind to say it wouldn't be fair to take all the money plus the interest that has been put up by those people. So by breaking the fairness issue down through the property owner, even though he doesn't have quite as much and its spread among more people, somehow I think there is more equity involved when you talk about it under a revolving fund. If the city actually got into the banking business per se and said that this is a service fee, like Walt is talking about, that is a different matter. I wouldn't have any objection to that, if we changed to the revolving fund and the money came out and you were saying in order to take advantage of the tax exempt bonds and the city wants a 5% service fee, fine. But when we start talking about it as being a portion taken from the bonds and that kind of thing, it seems to me that the equity in that should go back to the property owner. Am I addressing this thing squarely? Do I have my facts right?

REP. SALES said he thinks it is philosophical.

REP. HANNAH: Do I have the basic principle of what is going on correct in my mind as to what is happening in the revolving fund?

AL THELEN said yes, you do. I think the equity issues and factors you have identified are there. My suggestion is that different people will weigh those equity factors differently, and local government officials ought to be able to do that.

REP. MATSKO asked Al Thelen the following: Is there anything in this bill about the 5% going to a city or municipality to take care of arterial roadways going in and out of a new subdivision. Is there anything in this bill that would tie that strictly to

that, or could the municipalities actually spend that money any place they felt like it.

AL THELEN said they could. The current law requires the money after the bonds are paid for that district to go back to the general fund. Once it is in the general fund, the city council can use it for any general fund purposes they wish. That is how we've done it. We've tied it in for arterial streets, but my understanding of the law is that it could be used for anything in the general fund. No city has done that yet as a result of the 5% because the first of those happened in Helena only four and one-half years ago.

REP. KESSLER said to Al, "with the language now in Section 4 on page 4, with "shall" you have to do it." Is that right?

AL THELEN said if this passes and we decide to use the proceeds of the bond issue, we'd be much happier if that was a "may". It may well be that real estate developers will convince the City Council of Billings to change that. It would depend on the circumstance.

REP. BERGENE: Did we pass a bill that says that some of this general fund revolving fund could be used for low interest loans to people who were assessed for SIDs? Or was that in Business and Industry?

CHAIRMAN BERTELSEN said he doesn't remember it.

REP. BERGENE said she asked for what other purposes they would want to use the money from the general fund? That is what reminded me of that.

REP. HANNAH said the only flaw he sees with giving the City complete control is that once they have complete control they can say "yes" or "no" as to whether the developer can have the tax exempt bonds depending upon the way they want to do it. That may be fine being they have the general obligation bonds behind them, but I don't quite see the negotiation portion Mr. Thelen talks about when the city holds the trump card.

REP. PISTORIA asked that the amendment be reread, and this was done by Mr. Heiman.

REP. PISTORIA moved the amendment read by Lee and deleted Section 4.

REP. KESSLER moved to amend the amendment to change "shall" to "may".

REP. PISTORIA withdrew his amendment.

REP. HANNAH asked that we delay action until he talks to some people about this bill.

CHAIRMAN BERTELSEN said that we're having a problem with SB 152 which we passed on and which we left out some technical amendments. I would like to ask you to reconsider to allow Lee to put the amendments in the bill to make it legal. This is the lighting bill.

REP. KITSELMAN moved that Lee Heiman be delegated to make the technical amendments.

LEE HEIMAN said this has to do with Section 2. Section 7-12-4321. There are two sections within the same part that say "not more than three-quarters and not less than one-fourth." Those two sections conflict. They should have exactly the same wordings on line 20.

CHAIRMAN BERTELSEN commented that he is trying to make the rest of the code coincide with what we have done in this bill. In order to make the bill proper, it needs to be done in that manner. It won't change the bill in any way. Is it agreeable with the committee that Lee take care of that clarification?

REP. HANNAH moved that we consider action on SB 152 for the sole purpose of allowing Lee Heiman to make the necessary corrections for coding purposes.

QUESTION: All in favor of this reply "aye". All replied "aye". MOTION CARRIED UNANIMOUSLY.

The meeting adjourned at 2:20 p.m.

Verner L. Bertelsen
VERNER L. BERTELSEN, Chairman

hbm

AMENDMENT TO SB 96

Strike: Existing Section 4

Insert: New Section 4. Disposal of Funds Deposited in Revolving Fund. The amount of funds deposited in the revolving fund under 7-12-4169(2 less the amount of any outstanding loans to the district fund and les any interest earned on such funds shall be used to make all or a portion of the final payment or payments on the district bonds or warrants and shall reduce the final assessment on the property within the district to the extent of the available funds.

TO: MEMBERS OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

FROM: CITY OF MISSOULA

RE: SENATE BILL NO. 96

DATE: MARCH 23, 1981

As you are aware, the use of Special Improvement Districts have become an important method by which local governments finance public improvements. The theory of the special improvement assessments is to apportion public improvement costs to properties that are deemed to derive a primary, special or local benefit from that improvement. Special Improvement District bonds are not general obligation bonds nor do they constitute an indebtedness of the City.

Existing state law requires that a city issuing S.I.D. bonds establish a revolving fund to secure the payment of the district bonds and interest thereon as it becomes due. The legislature has authorized the city to fund the revolving fund by either loaning the revolving fund money from the general fund or by levying a tax on property within the city not to exceed in any one year 5% of the principal amount of outstanding bonds. Irrespective of the way the revolving fund is financed, any payment of bond or interest made from the revolving fund is a loan to the Special Improvement District. This loan gives rise to a lien against further assessments for the amount of the loan.

The purpose of Senate Bill No. 96 is to provide cities with another alternative for financing the revolving fund. It is our position that to the extent local property owners benefit from the creation of a Special Improvement District those property owners ought to contribute directly to the revolving fund, thus relieving the general fund taxpayers of that obligation. Having this addition source of revenue for the revolving fund is particularly important during the first year of an S.I.D. when the delinquencies are likely to be high.

This bill as amended provides that the amount contributed to the revolving fund by the district shall be utilized in the last year of the S.I.D. to make the final S.I.D. payment. Thus the cities will not be accumulating a large revolving fund.

Respectfully submitted,

Mae Nan Ellingson

Mae Nan Ellingson
Missoula Deputy City Attorney

MNE/jd

STANDING COMMITTEE REPORT

March 26, 1981

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 96

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FUNDS FOR SPECIAL IMPROVEMENT DISTRICT REVOLVING FUNDS BY ALLOWING 5% OF THE IMPROVEMENT COST TO BE AN INITIAL INCIDENTAL EXPENSE TO BE DEPOSITED IN THE REVOLVING FUND; AMENDING SECTIONS 7-12-4169 AND, 7-12-4222, AND 7-12-4227, MCA."

House Amendments to:

Respectfully report as follows: That SENATE Bill No. 96

1. Page 2, line 10.
Following: "and"
Strike: "or"
Insert: "and"

2. Page 4, lines 7 through 12.
Following: "REPAID"
Strike: the remainder of section 4
Insert: "may be returned to the owners of record of the property of the district in direct proportion of the original assessment on each piece of property or as an alternative a municipality may transfer the funds placed in the revolving fund as a result of 7-12-4169(2) to the general fund after the final payment of the district's bonds or warrants are paid."

AS AMENDED BE CONCURRED IN

~~DO PASS~~

Verner L. Bertelsen Chairman.

STATE PUB. CO.
Helena, Mont.